

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NICHOLAS HEILAND, <i>et al.</i>,	:	
Plaintiffs,	:	Case No. 1:22-cv-00437
v.	:	CHIEF JUDGE ALGENON L. MARBLEY
POWER HOME SOLAR, LLC, <i>et al.</i>,	:	Magistrate Judge Elizabeth P. Deavers
Defendants.	:	
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DAVID HUTZELL, <i>et al.</i>,	:	Case No. 2:22-cv-02930
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, <i>et al.</i>,	:	
Defendants.	:	
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TAMARA SPENCER-WARD, <i>et al.</i>,	:	Case No. 2:22-cv-03149
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, <i>et al.</i>,	:	
Defendants.	:	
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RICHARD ANNON, <i>et al.</i>,	:	Case No. 2:22-cv-03174
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, <i>et al.</i>,	:	
Defendants.	:	

DENISE FARAG, et al.,	:	Case No. 1:22-cv-00448
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, et al.,	:	
Defendants.	:	
ERIK STEFFEN, et al.,	:	Case No. 1:22-cv-00444
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, et al.,	:	
Defendants.	:	
ERIC SHULTZ, et al.,	:	Case No. 3:22-cv-00223
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, et al.,	:	
Defendants.	:	
TERI WHITAKER, et al.,	:	Case No. 3:22-cv-00233
Plaintiffs,	:	
v.	:	
POWER HOME SOLAR, LLC, et al.,	:	
Defendants.	:	

CRAIG BERGER, et al.,	:	Case No. 3:22-cv-00242
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
POWER HOME SOLAR, LLC, et al.,	:	
	:	
Defendants.	:	

ORDER

This matter is before this Court on the parties' Joint Motions to Extend Goodleap, LLC F/K/A Loanpal, LLC's Time To Respond to Plaintiffs' Amended Complaint ("Motions to Extend") (No. 1:22-cv-00437 (hereinafter *Heiland*), ECF No. 38; No. 2:22-cv-02930 (hereinafter *Hutzell*), ECF No. 46; No. 2:22-cv-03149 (hereinafter *Spencer-Ward*), ECF No. 31; No. 2:22-cv-03174 (hereinafter *Annon*), ECF No. 30; No. 1:22-cv-00448 (hereinafter *Farag*), ECF No. 31; No. 1:22-cv-00444 (hereinafter *Steffen*), ECF No. 34; No. 3:22-cv-00223 (hereinafter *Shultz*), ECF No. 31; No. 3:22-cv-00233 (hereinafter *Whitaker*), ECF No. 29). This Court also considers in this Order Defendant Jayson Waller's Motions for Extension of Time to Respond to Amended Complaint. (*Heiland*, ECF No. 36; *Hutzell*, ECF No. 44; *Spencer-Ward*, ECF No. 29; *Annon*, ECF No. 28; *Farag*, ECF No. 29; *Steffen*, ECF No. 32; *Shultz*, ECF No. 29; *Whitaker*, ECF No. 27; No. 3:22-cv-00242 (hereinafter *Berger*), ECF No. 14).

On December 19, 2022, Plaintiffs in each case filed a motion requesting a status conference with this Court to discuss whether Plaintiffs' amended complaints might impact Defendant GoodLeap's pending Motions to Dismiss and Compel Arbitration and Plaintiffs' pending Motions for Limited Discovery. (*Heiland*, ECF No. 35; *Hutzell*, ECF No. 43; *Spencer-Ward*, ECF No. 28; *Annon*, ECF No. 27; *Farag*, ECF No. 28; *Steffen*, ECF No. 31; *Shultz*, ECF No. 28; *Whitaker*, ECF No. 26). In their Joint Motions, the parties stipulate to allow GoodLeap to delay responding to

Plaintiffs' amended complaint until this Court rules on the aforementioned pending motions. The parties also stipulate therein to withdraw Plaintiffs' requests for a status conference. For his part, Defendant Jayson Waller moves in each case for an extension of time to respond to Plaintiffs' amended complaints given the complexity of the amended complaint, the impact of the holiday season, and his involvement in related bankruptcy proceedings.

This Court finds that Plaintiffs improperly filed their amended complaints in almost all the above-captioned cases. Pursuant to Federal Rule of Civil Procedure 15, a party may only amend its complaint without leave of court within:

- (A) 21 days of serving it, or
- (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Fed. R. Civ. P. 15(a)(1). Otherwise, "a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2).

The only matter in which Plaintiffs timely filed their amended complaints was *Berger*. In every other case, Plaintiffs amended their complaint more than two months after Defendants filed their Motions to Dismiss.¹ In none of those cases did Plaintiffs obtain either consent from the opposing party or leave of court before filing their amended complaints. As such, this Court hereby **STRIKES** Plaintiffs' amended complaints.

For the reasons set forth above, this Court **ORDERS** the following:

¹ Plaintiffs filed their amended complaints more than two months after Defendant GoodLeap, LLC filed its motions to dismiss in *Annon, Farag, Heiland, Hutzell, Shultz, Spencer-Ward, Steffen, and Whitaker*.

- Plaintiffs' Amended Complaints in every case except *Burger* are **STRICKEN**².
- Plaintiffs' Motions for a Status Conference³ are **DENIED AS MOOT**.
- The parties' Motions to Extend⁴ are **DENIED AS MOOT**.
- Defendant Jayson Waller's Motions for Extension⁵ filed in *Annon, Farag, Heiland, Hutzell, Shultz, Spencer-Ward, Steffen, and Whitaker* are **DENIED AS MOOT**.
- For good cause shown, however, this Court **GRANTS** Defendant Jayson Waller's Motion for Extension of Time to Respond to Amended Complaint filed in *Berger*.⁶

IT IS SO ORDERED.



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: January 9, 2023

² (*Heiland*, ECF No. 33; *Hutzell*, ECF No. 41; *Spencer-Ward*, ECF No. 26; *Annon*, ECF No. 25; *Farag*, ECF No. 26; *Steffen*, ECF No. 29; *Shultz*, ECF No. 26; *Whitaker*, ECF No. 24).

³ (*Heiland*, ECF No. 35; *Hutzell*, ECF No. 43; *Spencer-Ward*, ECF No. 28; *Annon*, ECF No. 27; *Farag*, ECF No. 28; *Steffen*, ECF No. 31; *Shultz*, ECF No. 28; *Whitaker*, ECF No. 26).

⁴ (*Heiland*, ECF No. 38; *Hutzell*, ECF No. 46; *Spencer-Ward*, ECF No. 31; *Annon*, ECF No. 30; *Farag*, ECF No. 31; *Steffen*, ECF No. 34; *Shultz*, ECF No. 31; *Whitaker*, ECF No. 29).

⁵ (*Heiland*, ECF No. 36; *Hutzell*, ECF No. 44; *Spencer-Ward*, ECF No. 29; *Annon*, ECF No. 28; *Farag*, ECF No. 29; *Steffen*, ECF No. 32; *Shultz*, ECF No. 29; *Whitaker*, ECF No. 27).

⁶ (*Berger*, ECF No. 14).